

December 08, 2014

PRESENT: Philip Bean, Chairman
Mary-Louise Woolsey, Vice-Chairman
Rick Griffin, Selectman
Rusty Bridle, Selectman
Jim Waddell, Selectman
Frederick Welch, Town Manager

SALUTE TO THE FLAG

I. Public Comment Period (2:00)

Art Moody, 3 Thomsen Road, commented about the Trustees of the Trust Fund; vote for the abolishment of the Heritage Commission and the process of abolishing it.

II. Announcements and Community Calendar (7:42)

Selectman Woolsey stated: wonderful Christmas Parade; shame weather wasn't nice enough to draw the crowds; nice community effort.

Selectman Bridle stated: Christmas Parade was a great time; Tree Lighting the night before a lot of restaurants came out, the horse rides were there; about 500 people there; another good old-fashioned town event; congratulate everyone that put it on.

Selectman Waddell stated: same as what Mary-Louise and Rusty said; the Tree Lighting was great and a lot of fun; there were a lot of people there; the parade was a lot of fun.

Selectman Bridle stated: it was good to see all of our Departments there.

Selectman Waddell stated: winter is coming; weather is getting bad; people need to watch their driving; make sure ice is safe before going on it.

III. Approval of Minutes (9:46)

1. November 03, 2014

Selectmen Woolsey MOVED to VACATE the action taken by the Board at its November 3, 2014 meeting in part VI as to amending and correcting the wording of the October 20, 2014 minutes, but to retain the draft wording of the November 3, 2014 minutes and to add the following supplement to part VI of those minutes:

Supplement: At its meeting on November 17, 2014, the Board held off on implementing the above correction and amendment to the minutes of October 20, 2014 and instead sought the input of legal counsel. On the advice of counsel, the Board voted on December 1, 2014 to retain the wording of parts IX and X on pages 7 & 8 of the minutes of the October 20, 2014 meeting as they appeared in their draft form, except 1) to strike the following words after 8:02 PM "and enter into a non-public meeting under RSA 91-A:3, II (a) and (c) and under

Note: Draft minutes are subject to corrections, additions and deletions.

RSA 91-A:2, I (a)”, and 2) to add the following supplement at the end of the October 20, 2014 minutes on page 8: “Supplement: Recognizing that it had not made the requisite motion or taken a roll call vote, the Board did not enter into a non-public session under RSA 91-A:3, II (a) & (c) and instead met with legal counsel in a non-meeting under RSA 91-A:2, I (b).” SECONDED by Selectman Bridle.

VOTE: 5-0-0

2. November 24, 2014 (12:15)

Selectmen Woolsey MOVED to APPROVE the minutes of November 24, 2014 SECONDED by Selectman Waddell.

VOTE: 5-0-0

IV. New Business (12:40) No new Business

V. Old Business (13:15)

1. Draft Warrant Articles

a. Update

Selectman Woolsey stated: had a brief discussion with the Town Manager on complying with the requirements of the Federal Government with the community rating system; hoping to get the appropriate wording that we shouldn't have to draft in-house to submit to the voters; where does the responsibility lie the stipulations that have been set forth from the Planning Board; see no ability to enforce; noticed under recommendation an impact fee in the amount of \$3,641 for each single family home; assuming it's a school impact fee; number ten says a homeowner association shall be established and remain in existence; talking about five properties; one which already exists fronting on Woodland Road and four other parcels; don't want to accept this road as a public road; too many stipulations in here; Mr. Lessard said it was up to the Selectmen to police the development once it's completed; looking for parameters of enforcement here.

Chairman Bean stated: we have a liaison to the Planning Board; in terms of lines of communications and staffing, it's appropriate that the representative to that board would be entertained with your questions and he would staff it through the town attorney and we would seek fruition to your questions; think that's the appropriate way rather than any individual member going to different board meetings and putting in their input; that's the purpose of assigning a liaison or board representation.

Selectman Griffin asked: what could there be about that road there that would make it not acceptable to the town? Town Manager Welch stated: if the road represented an unnecessary risk; traveling the road under certain conditions; the risk was the liability of the town; the Selectmen may decide not to accept the road for that reason because you would be liable for whatever happened on the roadway; it would be of unusual nature, not normal.

Selectman Griffin stated: know Mrs. Woolsey is concerned with the four hundred feet to the aquifer; that's the standard for the whole United States; that's how the Board feels about it there; not sure who would be in charge if there is a problem with the salt; who keeps track of that? Town Manager Welch answered if it were a public highway as accepted by the Selectmen, and if we have freezing rain or difficult conditions that would make the road very slippery, it would have to be sanded and salted, otherwise the road would not be traversable;

the municipality would be liable for damages to whoever had an accident there if we did not maintain the road properly.

Selectman Griffin asked: would you like me to bring these issues up? Selectmen Woolsey answered: I have brought these issues up to the Planning Board.

Chairman Bean stated: it's another board issue; it's a Planning Board issue; I'm not stepping on their traffic; don't know if it's been finally approved; that's not my responsibility; not a Planning Board member; Mr. Griffin will bring that news, his concerns; that's the only rational and reasonable way to staff these issues; want to hear what you have to say; doesn't necessarily need to be tonight; it has to be more procedural to effect good outcome; that's what we really need to do here; we can't be looking over the shoulder of every single board; it's in the middle of approval.

Selectman Woolsey stated: this is a town issue; the Planning Board isn't going to sit there and be sued if we have problems here; it ends up being dumped in our laps; there is no policing here; once the neighborhood is built or as it's being built, haven't seen much by the way of inspections and checking out what's going on; once these developments are underway you're not going to have a neighbor calling up their neighbors; there are all sorts of stipulations that are feel good for the public but it doesn't mean anything; want to understand what we are doing especially in this very sensitive zone; would like to see us have an article drafted focused on the aquifer protection district; the aquifer protection district isn't protecting anything; it's being built in; they are putting salt on all the roads; in this particular instance the proposed development stops down in the parameter of the wells; there is the potential for contamination in that area; think it's unacceptable; that particular proposed development is a terrible risk; the water company has spent a lot of money and time trying to find other sources of wells; they are constantly on the lookout for viable wells; this is an issue to put to the public; would like to draft an article for beefed up protection in the aquifer protection zone; make it a true aquifer protection zone.

Chairman Bean stated: we've morphed from this particular development specifically in discussion in detail by you; now we are talking warrant for an aquifer protection; that would be incumbent upon you to draft that, make a motion, and whether the Board approved it or not.

Selectman Griffin stated: would be against it; shouldn't make it more restrictive than any other place in the United States; need to be careful about that area; there are many other houses around there; they are all fertilizing their yards; why we would want to get into tracking all of this; can't imagine how it would ever really work out; people would do what they want to do; don't think this is something we can police as the Board of Selectmen; it's clearly stated by members of the water company that it's 400 feet everywhere; don't think we need more restrictions; can't see why we would take our town attorney to do something like this; I'm not in favor of it.

Selectman Bridle asked: some other towns do reduce salt or sand only; is that because of the aquifer protection? Town Manager Welch answered: it is because of their individual ordinances; they do have areas that are extremely sensitive; there are municipalities where wells are located close to the roadways; in those areas, you will find that cities and towns do not salt or they put minimal salt down.

Selectman Bridle asked: these wells, are they 400 feet from the road presently? Town Manager Welch answered: there is a 400-foot radius around the well; they are in the back of the development in this case; they are behind all the lots; her comment is that the land slopes towards the wells; she is concerned about the runoff over a long period of time and potentially polluting them.

Selectman Waddell stated: read the minutes and reports; agree with Rick; they are an elected board; it's their responsibility; the way the Government is set up, the Planning Board has that responsibility; think aquifers need to be protected; Aquarion came in and said it wasn't that dangerous; think we can go overboard with the protection; going to defer to the Planning Board; people on there that have spent a lot of time studying this kind of thing.

Chairman Bean stated: don't think there is going to be a motion passed by this Board for a warrant article that has anything to do with the aquifer; agree with Mr. Griffin; agree with Mr. Bridle's comments; agree with Mr. Waddell; appreciate your concern as I know the town does about the water supply; in terms of old business and the research on it, the Board is clear; think they have spoken eloquently and emphatically about their position.

Selectman Woolsey stated: problem is not what the Planning Board can do; it's what we are stuck with after they do it because they are not going to enforce it; they aren't going to be hovering over every lot; who is going to enforce it; it's not going to be the Planning Board.

Chairman Bean stated: the Board has made itself clear; we can, if you'd like, bring it forward to another meeting; if it's so important it needs to be a scheduled item on the agenda with representation; need to make motions; if your motions aren't seconded or approved the it dies at this Board level; that's just how it works in Government in Hampton.

Selectman Woolsey stated: have draft warrant articles generic; have nothing specific there; proposing that as a draft warrant article working with counsel to enhance the protection of the aquifer protection zone.

Chairman Bean asked: is there a second for Selectman Woolsey to pursue a draft warrant article for an aquifer protection? Is there a consensus; is there any support for that; seeing none at this Board; it is not going forward.

Selectman Griffin stated: will make a point of bringing back that information of who did they intend to keep track of these issues; my feel is that they will never really be kept completely being tracked of; people are going to do what they want to do.

Selectman Waddell asked: are we going to come back to warrant articles? Chairman Bean stated: yes; we are going to backtrack; the Senator is here.

VI. Appointments (32:50)

1. Senator Nancy Stiles
 - a. NextEra

Chairman Bean stated: thank you for coming down tonight; we know how busy you are and how important you are to this district and your growing importance to the State and certainly to this community; read some background on NextEra; the water tunnel is the problem we face here which is part of the taxation code for the State of New Hampshire; inherently think the law is outdated; it's a poorly written law in the modern era; yields development of assessment procedural pursuit to the State; State sets value; State sets conditions; State sets

hearing; it's out of our control; it's been an ongoing problem; we as the Board are not happy with the settlement that was executed; not satisfied with that process; came down to the eleventh hour; on August 18, 2014, Mr. Tinker gave the synopsis for the basis of the settlement; over from the last few years up until 2020 this settlement will cost us \$2.18 million dollars in lost revenue; State sets these values; Mrs. Woolsey said it best of anyone here that this is an additional tax on the people of Hampton; for the years 2011, 2012, and 2013, \$620,000 was refunded to NextEra; that's out of Hampton's taxpayers' pockets; assessment at \$31 million has been mitigated; going forward for the years 2015-2020 it will be another \$1.56 million we will not receive based on procedures by that law; an additional tax on the people of Hampton; NextEra Energy, the owner of the plant and its subsidiaries is a \$15 billion dollar corporation; third quarter net income was \$660 million dollars; operates a nuclear plant next to us; rate payers in Florida have monthly electric bills well below the national average; studied the company on a peripheral basis; have thousands of employees; 14,000 employees; they are in Canada; lead by a Harvard graduate James L. Robo; a successful man from Harvard on Boards of Directors; former GE Capital executive; now Chairman and Chief Executive Officer of this firm; impressive company; taken money from Hampton taxpayers; not just Hampton taxpayers additionally from the State; millions of dollars from the State education fund as Randy Cushing will tell you; as former Rep Muns will tell you; read from the legislative review from the Town and City which is the New Hampshire Municipal Association; read from the letter that Cordell Johnson, New Hampshire Municipal Association, wrote; speaks to repel of the law; read from the data that Cordell Johnson produced; it's painful for us to absorb with our infrastructure needs; it is only for utilities; not non-utility platforms; Cordell tasked and put together courses of action; read from it.

Senator Stiles stated: meet with the Hampton reps last week; have decided to re-up our meeting the first of every month to work on things important to the State; Randy has filed a bill; he is looking to shift the prime sponsorship to someone in the majority party and outside of Hampton that would be able to carry it forward; all the Hampton would be signed on to that; think he has identified the person but don't know if he has accepted that or not; I did sign off on that last week; think the others have also signed off on it as well; know there is a plan for us to work together to ready for the hearing; think part of what Cordell put together was for you to be in contact with your peers in other communities to do the same thing; probably get together prior to that hearing date; bill won't come out until the middle of January is what they are expecting as the earliest; whether it will be on the top of the deck, I don't know; they usually reserve those for appropriations; don't know exactly what the number will be; we'll be working as a team to see if we can move it along a little bit further; also to identify the representatives to get in there and speak to it from those other communities; that would be the plan; he has two LSR's in; I have only seen the one that has full repel; LSR is a Legislative Service Request; will become a piece of legislation once it's been signed off by everyone and given a number; it will go to the floor of the house for a hearing; it will go to the floor of the house for a vote; come over to the senate for a hearing and a senate for a vote as long as we can get it out of the committee; last time we had a hard time getting it out of the committee; think the committee has changed; don't know who is going to be the Chair of that committee yet; spoke with the new speaker and he expects to have his chairmen all appointed by the end of the week and probably the committee people

too; we'll have a better sense of who sits where and what kind of people we would like to have on that piece of legislation and need to bring to the table to discuss it.

Selectman Woolsey stated: this is a burden on the State as well as the communities; think the State would say we want to level the playing field for everyone; you are losing revenue too; it is an intolerable situation; it is a dreadful thing to foist on the taxpayers.

Senator Stiles stated would hope so; the State could use whatever revenue that it should have been generating.

Selectman Griffin stated: thank you for doing all that you can; know it is not easy; you have been at this for some time; please keep us informed.

Senator Stiles stated: have also filed a meals and room tax bill as well; that's been filed; we'll work together the same way on that piece of legislation; try to elicit others that are in that same situation; fortunately one of the sponsors from last year happens to be a minority leader in the senate; have him attached to the bill; hopefully he'll sign off on it.

Selectman Bridle stated: Senator Stiles has always had our best interest at heart; it is never easy to push a bill through Concord; think if we can work together with the other towns that are listed will certainly help our cause; hopefully we will see some relief from this issue.

Senator Stiles stated: the committee usually hears the Selectmen when they speak; they hear us but we are there every day; we have to work constantly and behind the scenes to herd in the cats as Rusty would say to try to get the bills moved; if a Selectman or Town Manager appears before a board, it carries a fair amount of weight; if you can partner with some of your other peers, think that would be a benefit; think I heard Cordell say only two of them speaking on the last bill so it was tough; need to bring in the troops and get them to speak.

Selectman Waddell asked: thank you for what you are doing; has any other of the town's representatives or senators approached you on this problem? Senator Stiles answered no.

Selectman Waddell stated: that always interested me when I was up there; went through this spiking thing; Portsmouth and us were the only two working on it and all the others seem to just let it drop; sometimes when we say this is a big issue, sometimes people just let it go; important thing is to get something passed; some people view it as an increased tax; the town is viewing that we need the break from it; it's going to be a difficult issue.

Senator Stiles stated: it will be; the second piece of legislation that Renny filed; just looked at the title of it; thought it was going to be the one that would remove it after the twenty-five years which is what he did last year; this one I think is a little bit different; not exactly sure how that is going to be processed.

Selectman Waddell stated: going to be important for us to do our work because they're going to file the legislation and be working on it up there; if we can't get the other towns that are involved Selectmen up there talking about it, it's not going to go any place; there are so many groups against it; people that are getting the break are going to fight us; it's important to follow through with the plan; need to do our work; thanks for what you do.

Chairman Bean stated: Selectman Waddell went to Concord specifically to address this with the NHMA; it's so great to have all the Board members but specifically having two former legislators is key because they know how it goes; speaking specifically to the former representative marks, there has been the filing of the legislation; talks about Hampton Board

of Selectmen to contact the municipalities; think Mr. Welch and his imminent stature could discuss with all of those municipalities; Fred has the point on that; he contacts them; if we have eight towns, we could be talking sixty people; if we could task you to join that fight; secure that co-sponsorship; coordinate with both Nancy and Cordell going forward; this is imminent and here now.

Senator Stiles stated: the association has that as one of their primary positions; that carries weight with a committee as well.

Selectman Waddell stated: think we should keep in mind with the rooms and meals tax the same thing; need to make a coordinated effort to help get that passes.

Senator Stiles stated: the toughest thing is to identify the communities. Selectman Bridle stated: we know a lot of them already; it is pretty easy to tell. Senator Stiles stated: do have a list of about fifty-eight that would benefit

Chairman Bean stated if we could go ahead; thank you Senator for your trip; Fred is going grab tip of the steer on that; we can absolutely mirror this effort; this coordinating effort with the NHMA and Fred and for the rooms and meals.

Chairman Bean asked: could you just explain the intent of that rooms and meals legislation? Senator Stiles answered: right now all of our restaurants and hotels pay 9% tax; it's a pass through; they collect it from the customers and just pass it on to the State; they take a small piece out; when it gets to the State it is supposed to be broken into a 60%/40% split; so 60% stays with the State; 40% goes back to the communities; it's based on the population in the community; there are communities that may have one or two businesses but a large population; they get back based on their population even though their community hasn't really contributed; biggest pushback been getting is it's just like the education funding; don't want to pay more for the education funding and give it to the other people; it's the same thing; why should you get more meals and room tax back; we generate the money for the State; they did all the work; cost our local taxpayers extra police, extra fire, extra public works; that comes out of local tax dollars; we should be getting some of that back; asked for a portion of that 40% to be sent back to the communities that generate the money; put in the bill as such; debated whether to put it in as a study committee or put it in as a regular bill; decided to put it in as a regular bill; if I get a lot of push back, I'll ask a study committee to come out of it; don't want to lose it.

Selectman Woolsey stated: from point of view as local taxpayers, we have some serious concerns on where the State is going; the State still owes us \$1.8 million dollars of SRF funding; those monies are supposed to be given over to the town once the projects are completed; we are still lagging way behind on being reimbursed on the SRF funding; retirement is another big problem; we can't afford it with the shortfall in the retirement system and not being paid back; those beach related costs are huge and they are getting bigger every year; we're basically crippled providing local services; we've provided more than the services and accommodations to the State of New Hampshire; tired of being at the bottom of the barrel; tired of not getting some type of compensation from the State of New Hampshire for the services we provide; that retirement system has got to be looked at; it's unconscionable to not have the State do its share.

Note: Draft minutes are subject to corrections, additions and deletions.

Senator Stiles stated: don't think you are going to see the State pick up that share again; do have another bill in this year; introduced enabling legislation; communities that choose to do so could participate in the State purchase card program; my first questions were how do my communities get in and how do they get out; it would be done basically on a two or three year agreement; you'd get your normal return on your sales; plus you'd get an additional amount; that would be split; get yours back; the other would go to the State; it would be split 50%/50% into the unfunded liability and rainy day fund to try keep rates low and get unfunded liability paid off.

Board revisited the Old Business (1:02:33)

Selectman Waddell stated: Article 34 we voted on; went to the Trustees of the Trust Fund meeting today; if Arthur looks at their minutes it will answer all the questions he had tonight; they discussed those issues that he was bringing up; wanted to also make sure this was recommended by the Board.

Town Manager Welch stated: you have not voted to recommend any warrant articles.

Selectman Waddell stated: they are requesting if it could be one recommended by the Board; worried people will not understand it; to correct a problem.

Selectman Griffin stated: we usually do that at a specific time. Town Manager Welch stated: we do; usually after the warrant closes and the petition articles are in so you can look at them as a total substance of the actual warrant.

Chairman Bean stated: will not be reviewing in detail or be going over that until a "to be" determined date.

Selectman Griffin stated: would like to see Hampton get a better share of the rooms and meals tax; think some of the statements Mrs. Woolsey just made about the growth, there is going to be a lot more tax revenue coming in the future; sounds like it's so negative with what is going on down there when so many positive things are happening there; the real estate is going well down there; it's going to give us increased money to work with in the future; don't see a sense of dire problems down there as a result of what is happening in Hampton; think it's nothing but positive.

Selectman Woolsey stated: don't know if anyone listened to Chief Sawyer or the Deputy Fire Chief and the problems the police can't work on because they are understaffed; we keep losing special police officers and regular police officers to other communities where the pay is better; in time some of the new developments will bring in more tax; question for the Planning Board representative is where are the impact fees for the municipality; where are the impact fees being assessed against the developers; the Planning Board has had the authority to assess since 2002; they are assessing \$3,000 per house for the school fee; where are the municipal impact fees; bringing in more traffic, more people, bringing in higher buildings, more strain for Police and Fire Departments.

Chairman Bean stated: this Board is not going to be criticizing other Board members; not what this town is about; refrain from doing that; they are elected Boards; they are powerful and dedicated; it's a lot of work.

VII. Town Mangers' Report (1:09:18)

Note: Draft minutes are subject to corrections, additions and deletions.

1. The perambulation of the Town Line between Seabrook and Hampton is due for walking in 2015. How would the Board like to proceed in completing this statutory requirement?
2. The Board will remember this concern over the seal die off that was experienced 2 years ago. We have received word from Ellen Goethel that a report has concluded that the seals do contain Avian influenza and contact by humans should be avoided at all times. Individuals and animals should not be in contact with dead seals at any time.
3. The Board will be meeting next Monday with individuals involved with the Sea Level Rise Commission to discuss Town participation in study efforts.
4. The Counsel for the Town and the Beach Precinct are working to close the deeds for the transfer of properties for the Beach Fire Station. We anticipate that the deed transfer will occur before the end of the year.
5. For the information of the general public the Board of Selectmen is currently not scheduled to meet on December 29, 2014.

Town Manager Welch added: have the signature sheet for the change in the purchasing policy which was voted last meeting; have a request from Congressmen-Elect Frank Guinta who would like to hold town hall meeting in the Selectmen's room a meeting on Thursday, December 18, 2014 from 5:30-6:30pm; purpose is to give residents the opportunity to voice their concerns and opinions; will be open to Hampton residents.; have an email from Betty Moore regarding the 375th Banners; the museum has one of them; the other two are available for pickup; what would the Board like to do with those two banners; have a request for a live nativity parade and public gathering license for the Hampton Methodist Church on Lafayette Road; they are going to do a live nativity next to a State highway.

The Board approved Frank Guinta's request for meeting on Thursday, December 18, 2014 from 5:30-6:30pm in the Selectmen's Room with no objections.

Town Manager Welch stated: law requires if you hold a public gathering of more than fifty people and it's on a lot next to a public road, you need a public gathering license.

Selectman Woolsey MOVED to approve the Methodist Church's public gathering license SECONDED by Selectman Bridle.

VOTE: 5-0-0

Chairman Bean stated: it is December; we had a great summer here; echo the Board's enthusiasm and specifically Selectman Griffin's that things are going very well both at the beach and town; spoke about the accomplishments and phenomena over the year; this really is a world class community.

Selectman Woolsey stated: still don't remember a motion that we not meet the last Monday in December.

Chairman Bean asked: would you like to make a motion to meet on December 29, 2014?
Selectman Woolsey stated: I will so move.

Chairman Bean asked: is there a second; seeing none; motion fails.

Note: Draft minutes are subject to corrections, additions and deletions.

VIII. Closing Comments – No closing comments.

IX. Adjournment (1:19:48)

Selectman Waddell MOVED to ADJOURN the public meeting SECONDED by Selectman Bridle.

VOTE: 5-0-0

Chairman